

Remarks/Arguments

Remarks

Amendments to the Claims

After entry of the amendments presented herein, claims 2, 11-14, 92, 93 and 97-107 will be pending in the present application. Claim 108 is canceled herein without prejudice or disclaimer. Claims 2 and 93 are also amended herein without prejudice or disclaimer. After entry of the amendments presented herein, claim 2 is the only independent claim. Applicants reserve the right to pursue the subject matter of the unamended claims in continuing applications.

The amendment to claim 2 is supported in the application as filed at page 26, lines 15-18; page 28, line 27 to page 29, line 9; and Example 1.

The amendment to claim 93 corrects a typographical error.

The amendments to the claims presented herein introduce no new matter.

Applicants note that pending claims 2, as amended herein, 11-14, 92, 93 and 97-107 were previously found allowable in the Notice of Allowance, mailed January 2, 2008, page 2. As to the amendment of claim 2 and the canceling of claim 108, Applicants note that these were made by Examiner in the Examiner's Amendment section on page 3 of the Notice of Allowance, mailed January 2, 2008, relating to the present application.

Arguments

As Applicants understand, the Examiner is of the opinion that "[t]his application contains claims directed to the following patentably distinct species: the distinct and separate ingredients of Claim 93 and Claims 103-106..." and "...also contains claims directed to the following patentably distinct species: the distinct and separate powder media of Claims 97-102." (Office Action, page 2.) Given this, the Examiner requires Applicants "...to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable." (Office Action, page 3.)

Applicants hereby elect the following species:

- Ingredient: fatty acid (as recited in claim 105). Claims 2, 11-14, 92, 93, 97-102, 105 and 107 read on the elected species of ingredient.
- Powder media: agglomerated eukaryotic medium powder for culturing an animal cell (as recited in claim 97). Claims 2, 11-14, 92, 93, 97 and 103-107 read on the elected species of powder media.
- Ingredient: IGF-1 (as recited in claim 93). Claims 2, 11-14, 92, 93 and 97-107 read on the elected species of an ingredient.
- Cell: a Chinese hamster ovary (CHO) cell (as recited in claim 102). Claims 2, 11-14, 92, 93, 97, 98 and 102-107 read on the elected species of a cell.

Applicants note that the identical requirement for election of species (as now made by the Examiner) was made by the Examiner on page 2 of the Office Action, mailed July 26, 2006. In the response, filed on August 17, 2006, Applicants made the first two election of species as are made hereinabove. Subsequently, in the Office Action, mailed November 3, 2006, the Examiner stated that "...Applicant is not fully responsive to the previous election of species requirement set forth in the previous Office action. As Applicant indicates that Claims 93 and 102 read on one or more of the elected species, Applicant is also required to elect a single species of one of the ingredients recited therein the claim-designated Markush groups of Claim 93 and Claim 102." In the response, filed on November 27, 2006, Applicants made the last two election of species as are made hereinabove.

In view of the elections made hereinabove, Applicants respectfully submit a search by Examiner has already been done. As such, with the amendment of claim 2 and canceling of claim 108 herein, made in accord with the amendment made by the Examiner in the Examiner's Amendment section on page 3 of the Notice of Allowance, mailed January 2, 2008, Applicants respectfully submit that the claims of the present application are in condition for allowance.

Conclusion

Applicants believe that a full and complete Reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned.

Prompt and favorable consideration and entry of this Amendment and Reply is respectfully requested.

Respectfully submitted,
/Robert Yoshida/
Registration No. 54,941

Robert Yoshida
Agent for Applicants
Telephone: 760-268-8351

Date: October 27, 2008